

Message Text

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PAGE 01 ABU DH 02430 280914Z
ACTION NEA-10

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FM AMEMBASSY ABU DHABI
TO SECSTATE WASHDC 6547

UNCLAS ABU DHABI 2430

E O 11652: NA
TAGS: EFIN, TC
SUBJ: CHATTEL MORTGAGES

REF: STATE 199711

1. CHATTEL MORTGAGES ARE RPT ARE LEGAL IN THE UAE. MANY UAE BANKS HOLD CHATTEL MORTGAGES ON EQUIPMENT SUCH AS TRUCKS AND BULLDOZERS, AND THESE LIENS ARE REGISTERED WITH THE COURTS. WHAT IS PROBABLY NOT LEGAL (SO WE ARE ADVISED BY THE LEGAL DEPARTMENT OF A LARGE U.S. BANK OPERATING IN ABU DHABI) IS THE CONCEPT OF "FLOATING CHARGES" - A LOAN SECURED BY "ALL OF THE DEBTOR'S PLANT AND EQUIPMENT" (I.E., IT IS REQUIRED THAT A LIEN BE SECURED BY SPECIFIC IDENTIFIABLE PIECES OF EQUIPMENT).

2. THAT HAVING BEEN SAID, AMERICAN BANKERS HERE ARE GENERALLY OF THE OPINION THAT CHATTEL MORTGAGES DO NOT OFFER THE CREDITOR VERY POSITIVE PROTECTION. THE SYSTEM OF CIVIL LAW IN ABU DHABI IS EMBRYONIC, AND IN CASES WHERE THERE IS NO SPECIFIC LEGISLATION LOCAL USAGE AND CUSTOM APPLY WITH GUIDANCE FROM SHARIA LAW AND GENERAL PRINCIPLES OF NATURAL JUSTICE AND EQUITY FOUND IN OTHER LEGAL SYSTEMS KNOWN TO THE JUDGE INVOLVED (IN EFFECT THOSE IN JORDAY, EGYPT, SUDAN, ENGLAND AND FRANCE). THUS THE POSITION TAKEN BY THE COURTS IN A GIVEN CASE MAY BE SOMEHWAT UNPREDICTABLE.

3. AN ADDED HAZARD FOR LIEN HOLDERS IS THAT IN CASE OF CONTRACTOR DEFAULT ON A GOVERNMENT CONTRACT, THE GOVERNMENT APPARENTLY HAS UNCLASSIFIED

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PRIOR CLAIM TO THE CONTRACTOR'S ABANDONED PLANT AND EQUIPMENT WHETHER OR NOT SUCH EQUIPMENT IS COVERED BY A CHATTEL MORTGAGE. A CASE OF THIS TYPE IS BEING HEARD BY THE ABU DHABI COURTS AT THE PRESENT TIME, AND MOST BANKERS HERE ARE AWAITING THE OUTCOME WITH INTEREST.
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Message Attributes

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